



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 3506-99

4 October 1999

CWO2 [REDACTED] III USMC
[REDACTED]
[REDACTED]

Dear Chief Warrant Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 September 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions from Headquarters Marine Corps dated 7 and 19 July 1999, copies of which are attached. They also considered your rebuttal letter dated 13 September 1999 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found the Secretary of the Navy policy, as expressed in Secretary of the Navy Instruction P1120.10, was that warrant officers who had five years in grade and had never been considered for promotion were to be placed in the promotion zone on their next selection board, even if no billet vacancy existed. It did not preclude your consideration with less than five years in grade. Further, the Promotion Plan for the Fiscal Year (FY) 1999 Chief Warrant Officer (CWO) Selection Board showed there would be some vacancies for CWO-3, albeit only four. The Board found no requirement that what you call "natural" vacancies exist as a prerequisite to proper consideration for promotion. Since they found no error or injustice in your failure by the FY 1999 CWO-3 Selection Board, they had no basis to remove your failure by the FY 2000 CWO-3 Selection Board. As they found insufficient basis to remove your failures of selection for promotion, they had no grounds to recommend you for a special selection board.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

3506-99

IN REPLY REFER TO:
1600
MMA-4
7 Jul 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER 2 SI
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Chief Warrant Officer [REDACTED]
[REDACTED] USMC of 1 Jul 99

1. Recommend disapproval of [REDACTED]'s request for removal of his failure of selection based on the competitiveness of the record.
2. Per reference (a), we reviewed [REDACTED] record and his petition. He failed selection on the FY99 USMC Chief Warrant Officer 3 Selection Board. [REDACTED] believes he was ineligible for consideration in the primary zone due to the lack of required time in grade. Therefore, he requests removal of his failure of selection.
3. Since [REDACTED]'s petition is based on a time in grade issue, not an issue of competitiveness, we can not directly address his petition. However, his record was substantially complete and accurate as it appeared before the Board, giving him a fair opportunity to compete with his peers. Thus, we recommend disapproval of his request for removal of his failure of selection based on the competitiveness of the record.

[REDACTED]
Lieutenant Colonel, U. S. Marine Corps
Officer Counseling and Evaluation Section
Officer Assignment Branch
Personnel Management Division



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
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3506-99

IN REPLY REFER TO:

1412/1

MMPR

19 Jul 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF CHIEF WARRANT OFFICER 2
[REDACTED] USMC

Ref: (a) FY99 CW03 Selection Board Report
(b) Title 10, U.S.C.

1. Reference (a) reflects Chief Warrant Officer [REDACTED]
[REDACTED] is among those considered for promotion in the
primary zone to the grade of Chief Warrant Officer 3. He was not
recommended for promotion in the approved board report.

2. Under section 574(e) of reference (b), Chief Warrant Officer
[REDACTED] had the requisite time in grade and was eligible for
consideration for promotion to Chief Warrant Officer 3 on 14
August 1995.

3. Point of contact is [REDACTED]
[REDACTED]
[REDACTED]

Assistant Head, Promotion Branch